IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1574/2006
(Jesa Ram Vs. State of Rajasthan)

Date of Order : 06/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.C.Joshi for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 25.9.2006 passed by Judicial Magistrate (Ist Class) Vijay Nagar (for short 'the trial court' hereinafter) whereby the trial court dismissed the application filed by the petitioner under Section 457 Cr.P.C. for delivery of the woods seized.

Public prosecutor accepts the notice for final disposal. With the consent of learned counsel for the parties, the petition is finally heard and decided at the admission stage.

It is contended by learned counsel for the petitioner that the small amount of wood which was being transported in the Tractor No. RJ 13-22-1567 was cut from the agricultural field of the petitioner himself and the petitioner obtained permission

from the concerned Tehsildar for cutting the two tree for personal use. An affidavit to this effect has been filed by the petitioner before the trial court. Learned counsel for the petitioner has filed copy of the order of Tehsildar (Revenue) Vijay Nagar dated 19.4.2006 whereby the Tehsildar extended the period for cutting two trees in Chak No.4 BPM Kila No.11 in File No.127/418 which was granted vide order dated 10.4.2006 till 25.4.2006. The said tractor was intercepted by the police on 18.4.2006 while it was transporting the wood of the trees which were cut with the permission of the Tehsildar and a case under Section 41-42 of the Forest Act has been registered against the petitioner. Learned counsel for the petitioner therefore, submitted that the wood seized by the police may kindly be released in favour of the petitioner on Supurdginama.

Learned counsel for the petitioner has relied on a decision of this Court in Om Prakash Vs. State of Rajasthan S.B.Criminal Misc. Petition No. 658/06 decided on 13.10.2006 wherein on the similar facts and circumstances, the wood which was seized by the police was directed to be released on Supurdginama to the petitioner therein.

Keeping in view the fact that the small amount of wood was cut from the agricultural field of the petitioner himself with the prior permission of the Tehsildar for the personal use of the petitioner himself and therefore, prima-facie it does not

appear that any transit permit was needed for transporting such a wood. From the material on record, it does not appear that the wood seized was a forest produce but it was cut from the agricultural field of the petitioner. In the circumstances, therefore, the trial court fell in error in declining to release the vehicle in question on Supurdginama. Since the said trees were cut from the agricultural field of the petitioner after having obtained permission from the Tehsildar by depositing a requisite fees, in my view, no useful purpose would be served in allowing the wood lying under the open sky at the police station for indefinite period. Therefore, to secure the ends of justice, the wood in question deserves to be released on Supurdginama to the present petitioner.

In the result, the criminal misc. petition is allowed. The order impugned dated 25.9.2006 passed by Judicial Magistrate (Ist Class) Vijay Nagar in Criminal Case No. 184/06 is set aside and the trial court is directed to release the wood in question on Supurdginama to the petitioner on furnishing a personal bond in the sum of Rs.40,000/- with a surety in the like amount to the satisfaction of the trial court.

(H.R.PANWAR),J.

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